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Michael J. Hogan, Commissioner

July 31, 2014

To: All holders of Vermont Liquor & Tobacco Licenses

Re: 2013/2014 Legislative changes

The 2012/2013 was a very busy legislative session. Here is a recap of law changes for alcohol and tobacco that went into effect on July 1, 2013 and how these changes may affect your business. Following the recap are the changes brought about in the most recent legislative session.

AMENDED: Title 7 V.S.A. § 2(19) & 7 V.S.A. § 222(2) 2nd class license holders can now export malt and/or vinous beverages. By export, it means that you can now ship beer and wine to locations outside the State of Vermont. **(Change in law now allows Malt Beverages to be shipped in addition to vinous but only out of state)**

AMENDED: Title 7 V.S.A. § 2(28) at only one 4th class licensed location can a manufacturer of malt, vinous or spirituous beverages sell by the unopened container or distribute by the glass with or without charge, malt, vinous or spirituous beverages produced by no more than 5 (five) additional Vermont manufacturers or rectifiers provided those beverages are purchased on invoice from the Vermont manufacturer or rectifier. Additionally, a Vermont manufacturer of malt, vinous or spirituous beverages may sell their product to no more than 5 (five) other Vermont manufacturers or rectifiers. **(Change in law adds malt and spirituous beverages to vinous)**

AMENDED: Title 7 V.S.A. § 2(32); “art gallery” means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; and “bookstore” means a fixed establishment whose primary purpose is to offer books for sale. **(Refined the definition of an art gallery and book store)**

AMENDED: Title 7 V.S.A. § 66 will now allow domestic manufacturers of malt beverages both inside and outside of Vermont to ship directly to consumers in Vermont. Vermont Manufacturers may ship to out of state consumers so long as the receiving state allows such shipments. It does not permit manufactures to ship directly to retailers in or out of Vermont. **(Change in law adds malt to existing wine shipping law for consumers only)**

AMENDED: Title 7 V.S.A. § 230 will allow employees of wholesale dealers who do not hold a solicitors license to be employed by a first or second class licensee provided the employee does not exercise any control over or participate in, the management of the first or second class licensee’s business or business decisions, and that either employment relationship does not result in the exclusion of any competitor wholesale dealer or any brand of alcoholic beverages of a competitor wholesale dealer. **(Before change, employees of wholesale dealers not holding a solicitors license could only work at a business holding a second**



class license. Change now allows them to be employed by either first or second class licensees)

AMENDED: Title 7 V.S.A. §239(b)(c) now requires holders of third class, fourth class or farmers market licenses to meet with a Liquor Control Investigator or Training Specialist for the purpose of being trained in regards to laws and regulations under Title 7 before they can get a license. It also requires licensees and their employees to be recertified in their training at least once every two years thereafter. (Change in law holds third class, fourth class or farmers market licenses and their employees to the same requirements for training as current for first & second class licensees and changes the 3 year recertification to 2 years)

AMENDED: Title 7 V.S.A § 602 adds a “passport card” to the definition of a “valid form of identification” (Change adds passport cards as acceptable forms of identification for the purchase of alcohol or tobacco in addition to a valid photographic operators license, an enhanced drivers license or valid photographic nondriver identification card issued by Vermont or another state or foreign jurisdiction, a United States military identification card or a valid passport bearing the photograph and signature of the individual)

PLEASE READ THE FOLLOWING CHANGES TO THE TOBACCO STATUTES CAREFULLY AS THEY CONTAIN CHANGES TO WHAT YOU CAN OR CAN NOT LEGALLY SELL TO A PERSON UNDER THE AGE OF 18.

(“Tobacco Paraphernalia” is defined in statute as "any device used, intended for use, or designed for use in smoking, inhaling, ingesting, or otherwise introducing tobacco products into the human body, or for preparing tobacco for smoking, inhaling, ingesting, or otherwise introducing into the human body, including devices for holding tobacco, rolling paper, wraps, cigarette rolling machines, pipes, water pipes, carburetion devices, bongs, and hookahs)

("Tobacco substitute" means products including electronic cigarettes or other electronic or battery-powered devices that contain and are designed to deliver nicotine or other substances into the body through inhaling vapor and that have not been approved by the United States Food and Drug Administration for tobacco cessation or other medical purposes)

AMENDED: 7 V.S.A. § 1001(3) changes the definition of “Tobacco products” (“Tobacco products are now defined as cigarettes, little cigars, roll-your-own tobacco, snuff, cigars, new smokeless tobacco and other tobacco products as defined in Title 32 V.S.A. § 7702)

AMENDED: 7 V.S.A. § 1002(a)(e)(f)(g) requires those who sell tobacco products, tobacco substitutes or tobacco paraphernalia to first obtain a tobacco license. Selling the above mentioned products without a tobacco license is a criminal offense. Additionally, no one can import tobacco into Vermont unless they hold a wholesale license for tobacco as defined in 32 V.S.A. §7702. You can not sell tobacco products that have not been purchased from a holder of a Vermont tobacco wholesale dealers license. (Change adds the sale of “tobacco substitutes” & “tobacco paraphernalia” as needing a tobacco license the same as for regular tobacco products. Additionally, you can not import tobacco into Vermont unless you hold a tobacco wholesale dealers license. You can not buy tobacco products from anyone unless they hold a Vermont wholesale dealers license)

AMENDED: 7 V.S.A. § 1003(b) Vending machines selling tobacco products, tobacco substitutes or tobacco paraphernalia are prohibited at any location where it is lawful for a person under the age of 18 to enter. This includes a single vending machine that sells other non-tobacco products in combination with tobacco products, tobacco substitutes or tobacco paraphernalia. (Adds tobacco substitutes and tobacco paraphernalia to the vending machine prohibition)

AMENDED 7 V.S.A. § 1004(a) requires persons attempting to purchase tobacco products, tobacco substitutes or tobacco paraphernalia to provide legal proof of age. (Now requires proof of age for the purchase of tobacco substitutes and tobacco paraphernalia in addition to regular tobacco products. Failure to verify the purchasers legal age will result in civil penalties)

AMENDED: 7 V.S.A. § 1005(a)(b) A person under 18 years of age shall not possess, purchase or attempt to purchase tobacco products, tobacco substitutes or tobacco paraphernalia unless that person is an employee of a tobacco licensee and is in possession of those items in order to effect a sale in the course of their employment. A person under the age of 18 shall not misrepresent their age to purchase or attempt to purchase tobacco products, tobacco substitutes or tobacco paraphernalia. Possession of the above mentioned items by a person under the legal age of 18 will result in a \$25 civil penalty being assessed against the individual. A person under the legal age of 18 who misrepresents their age by presenting false identification to purchase tobacco products, tobacco substitutes or tobacco paraphernalia shall be fined not more than \$50 or provide up to 10 hours of community service or both. (Change adds tobacco substitutes and tobacco paraphernalia. Also new to this section is “attempt to purchase”)

AMENDED: 7 V.S.A. § 1007 A person who sell or furnishes tobacco products, tobacco substitutes or tobacco paraphernalia to a person under the legal age of 18 shall be subject to a civil penalty of \$100 for the first offense and not more than \$500 for any subsequent offense. (Change adds tobacco substitutes and tobacco paraphernalia to the offense)

The 2013/2014 Session was a little bit more subdued with one omnibus alcohol bill titled Act 202 bearing bill number S.299.

Sections 1 and 2 will now allow Wholesale Dealers to offer product tastings to the management and staff of businesses who have applied for first or second class Liquor Licenses but have yet to receive the license from the Department of Liquor Control. This is provided that the local Control Commissioners have approved the application at the local level. Once the application is received at the Department of Liquor Control, it will post notice of the pending application on the Departments website. (The change here is that prior to this change in law, Wholesale Dealers could not even approach a business until after that business had already received their Liquor License from the Department of Liquor Control)

Sections 3 and 4 legalize “Sampler Flights”, “Paddles”, “Skis” or any other reference to a flight of samples of malt, vinous or spirituous liquors. Therefore, a First Class Licensee can now serve to a single customer at one time a sample flight of up to 32 ounces in the aggregate malt beverages, up to 12 ounces in the aggregate of vinous beverages and, up to 4 ounces in the aggregate of spirituous liquors. (The change here now allows all on premise licensees to serve sample flights. Prior to this change only Manufacturers of Malt beverages could serve sample flights at their brew pubs)

Section 5 of the Act allows a Second Class Licensee to pick up only vinous beverages directly from a Manufacturer or Rectifier of Vinous Beverages. All products have to be sold by the Winery to the Second Class Licensee on invoice and a copy of which shall accompany the product to the Licensed Premises. (Prior to this change, Second Class Licensees could only have product either delivered on invoice to their licensed location by a Wholesale Dealer or holder of a Direct to Retail Shipping License or they could they could pick up product only at the Wholesale Dealers premises.)

Sections 6 and 7 ban the possession and sale of “Powdered Alcohol Product”. As used in this section, “Powdered Alcohol Product” means any alcoholic product in powder form that can be added to liquids or food. (Prior to this change in law it would be permissible for anyone to purchase, possess or consume alcoholic beverages derived from alcohol which had been previously reduced to a powder form)

Thank you for taking the time to read these important changes to our laws. Please insure that you share these changes with any of your employees who are involved in the preparation, sale or furnishing of alcoholic beverages or in the sale of tobacco products, tobacco substitutes or tobacco paraphernalia.